

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

JOEL B. MONTGOMERY, et al.,

Plaintiffs,

:

Case No. 3:07-cv-470

-vs-

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

:

MARY L. SANDERS, et al.,

Defendants.

---

---

**DECISION AND ORDER ON RECONSIDERATION**

---

---

This case is before the Court on Plaintiffs' Motion to Reconsider the Court's Order striking Plaintiff's Motion to Compel (Doc. No. 58).

The Motion to Compel, as well as the Reply Memorandum in Support, were stricken because they lacked the signature of Mr. Henry, Plaintiff's trial attorney. The Motion to Reconsider asks the Court to reconsider because, it says, "Plaintiff's Motion to Compel (Doc. No. 53) is in fact signed by Attorney Henry. . ."

Upon the Motion, the Court has reconsidered its Order and re-examined the Motion to Compel and again finds it is not signed by Attorney Henry. The signature block from the Motion is pasted below.

Respectfully submitted,

/s/ Kevin P. Podlaski  
Kevin P. Podlaski, Esq., *Pro Hac Vice*  
N.J. Bar No.: 024971990  
Indiana Bar No.: 25168-02  
CARSON BOXBERGER LLP

1400 One Summit Square  
Fort Wayne, IN 46802  
260-423-9411  
260-423-4329 FAX  
[podlaski@carsonboxberger.com](mailto:podlaski@carsonboxberger.com)  
*Co-Counsel for Plaintiffs*

R. Mark Henry, Esq.  
Ohio Bar No.: 0062546  
SKELTON MCQUISTON GOUNARIS & HENRY  
130 W. Second Street, Suite 1818  
Dayton, OH 45402  
937-226-1212  
937-226-1224 FAX  
[rmhenry@donet.com](mailto:rmhenry@donet.com)  
Trial Attorney and Co-Counsel for Plaintiffs

The Clerk's Manual of Electronic Filing Policies and Procedures provides at § II(C)(2):

2. Attorney Signature. A pleading or other document requiring an attorney's signature shall be signed in the following manner, whether filed electronically or submitted on disk to the Clerk's Office: "s/ (attorney name) ." The correct format for an attorney signature is as follows:

**s/ Judith Attorney**  
Judith Attorney Bar Number: 12345  
Attorney for (Plaintiff/Defendant)  
ABC Law Firm  
123 South Street  
Dayton, OH 45402  
Telephone: (937) 123-4567  
E-mail: [judith\\_attorney@law.com](mailto:judith_attorney@law.com)

As can readily be seen by comparing the filed Motion with the sample from the Manual, Mr. Henry's signature does not appear on the Motion, although his typed name is there. Because it is easy for a document preparer to type "s/attorney name," it might be thought that the authenticity of the typed signature would be more difficult to verify than in pre-electronic days when the Court would have before it an ink signature. That is not true, however. The Court would hardly have been familiar with the hand-written signatures of very many members of the Bar. However, the notice of electronic filing displays the name of the attorney whose CM/ECF password was used to file the

document.

Aside from verifying the authenticity of a document, the legal effect of a signature is quite different from that of the typed name of an attorney: a lawyer is responsible for what he or she signs.

Because Mr. Henry, the trial attorney, did not sign the Motion to Compel, it remains, upon reconsideration, STRICKEN. Plaintiffs are perfectly free to re-file in proper form and to request expedited consideration of their Motion.

July 31, 2009.

s/ **Michael R. Merz**

United States Magistrate Judge